

PUBLIC CHAPTER NO. 854

SENATE BILL NO. 3796

**By Southerland, Lowe Finney, Mr. Speaker Ramsey, Herron, Berke,
Ford, Tracy,
Raymond Finney**

Substituted for: House Bill No. 3772

**By McCord, Curt Cobb, Tidwell, Overbey, McCormick, Baird, Dean,
Bone, Bass, Niceley, Lollar, Bell**

AN ACT to amend Tennessee Code Annotated, Title 69, Chapter 3, relative to water quality control.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 69, Chapter 3, is amended by adding the following as a new, appropriately designated section:

Section ____.

(a) The general assembly finds and adopts as a matter of public policy, the following statements:

(1) The permitting process under this chapter should be a predictable, ordinary process for the benefit of the commissioner and permit applicants alike;

(2) As with all governmental regulatory activity, the permitting process under this chapter should be susceptible to easy public review and scrutiny;

(3) The permitting process under this chapter should afford applicants basic due process, including notice of application defects, timely review of applications, and prompt and meaningful administrative and judicial review of permitting decisions;

(4) The permitting process under this chapter should reflect an appropriate balance between enforcement of the state's environmental laws and the rights of persons seeking to comply voluntarily with those same laws, in order to safeguard our state's environment and develop our state's economy; and

(5) To further these goals, to protect the rights of applicants, and to promote efficient, effective resolution of permit applications by the commissioner, the general assembly hereby enacts this Bill of Rights for Permit Applicants under this chapter.

(b) The commissioner shall afford each applicant for a permit under this chapter the following rights under this Bill of Rights for Permit Applicants:

(1) Permit applicants shall have the right to assistance from the department in understanding regulatory and permit requirements;

(2) Permit applicants shall have the right to know the projected fees for review of applications, and how any costs will be determined and billed;

(3) Permit applicants shall have the right to access, on the department's Web site, complete and clearly written guidance documents, office of general counsel opinions, and department policies that explain the department's regulatory jurisdiction and requirements. The commissioner shall publish, on the department's Web site, a list of all information required in a permit application and the criteria used to determine whether the submitted information is adequate;

(4) Permit applicants shall have the right to timely completeness determinations for their applications. Permit applicants shall have the right to know exactly how their applications are incomplete and what further information is needed to make their applications complete. Absent extraordinary circumstances, the commissioner shall notify the applicant within thirty (30) days of any permit application deficiencies, or determine that the application is complete;

(5) Permit applicants shall have the right to a timely decision on their permit application. The following time limits shall apply:

(A) Aquatic Resource Alteration Permits (ARAPs) shall be issued or denied within ninety (90) days of the date the department determines an application is complete. If a public hearing is scheduled in response to a request from interested parties an additional ninety (90) days shall be added to the allowable time limit. The ninety (90) day time limit may be extended by written mutual

agreement between the commissioner and the permit applicant.

(B) Applications for the reissuance of National Pollutant Discharge Elimination System (NPDES) permits shall be issued or denied within one hundred eighty (180) days of the date the department determines an application is complete. If a public hearing is scheduled, in response to comments by interested parties, additional time is requested by the applicant, or additional time is requested by EPA, an additional ninety (90) days shall be added to the allowable time limit.

(C) Applications for new or modified National Pollutant Discharge Elimination System (NPDES) permits shall be issued or denied within three hundred sixty-five (365) days of the date the department determines an application is complete. If a public hearing is scheduled, in response to comments by interested parties or additional time is requested by EPA, an additional ninety (90) days shall be added to the allowable time limit. No other extension shall be granted, except by written mutual agreement between the commissioner and the permit applicant.

(6) Permit applicants shall have the right to appeal to the board any permit review time limits that have been violated without good cause. Through this appeal, applicants may obtain a set date for a decision on their permit and, where the board finds good cause, appropriate relief, including, but not limited to, a refund of all application fees; and

(7) Permit applicants shall have the right to know who will be reviewing their application and the time required to complete the full review process.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.

PASSED: April 21, 2008



RON RAMSEY
SPEAKER OF THE SENATE



JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 1st day of May 2008



PHIL BREDESEN, GOVERNOR